

## **REMARKS**

This paper responds to the Notice of Non-Compliant Amendment dated June 30, 2009, which states that the Responses filed on June 2 and June 4, 2009 are not fully responsive to the prior office action because they did not respond to a Requirement for Information. Applicants' response to the Requirement for Information appears below.

### ***Statement of Substance of Interview***

Applicants thank Examiner Lau for the brief telephonic interview which took place on June 22, 2009 with Applicants' representative Jonathan Sick. During the interview, the Requirement for Information was discussed, including how Applicants might appropriately respond to the Requirement.

### ***Response to Requirement for Information***

The April 15, 2009 Office Action ("Office Action") notes that Applicants submitted 698 references in an IDS filed on March 12, 2009. The Office Action then

reminds the Applicant that it is desirable to avoid the submission of long lists of documents if it can be avoided. Eliminate clearly irrelevant and marginally pertinent cumulative information. If a long list is submitted, highlight those documents which have been specifically brought to the applicant's attention and/or are known to be of most significance.

Finally, the Office Action makes the following Requirement for Information: "Therefore, it is required that if any information that is known to be material for patentability as defined by 37 C.F.R. § 1.56, applicant should present a concise statement as to the relevance of that/those particular documents therein cited."

Applicants respectfully submit that the Requirement for Information is not proper. The statement requested is not among any of the examples listed in 37 C.F.R. 1.105 or MPEP 704.11(a). While the MPEP may encourage the explanation of the relevance of submitted references, it does not require such an explanation. Nor is such an explanation required by 37 C.F.R. § 1.98 (except for foreign language material).

Applicants submitted the information contained in the March 12, 2009 IDS in order to comply with their duty of disclosure under 37 C.F.R. § 1.56, not in an effort to make the job of the Examiner more difficult. Applicants recognize that it is not a simple

matter for the Examiner to review all of the references cited, and understand that the Non-Patent Literature (NPL) materials present a particular problem because those materials are not word searchable by the Examiner. In an effort to accommodate the Examiner, Applicants are submitting (as Exhibit A) a list of NPL references which have been commonly cited in both the present application and in U.S. Application No. 11/334,876 (the application from which claims in the present application were copied or substantially copied). Applicants make no representation with respect to the relevance or materiality of the references on the list as compared to any other reference that has been submitted.

\* \* \* \* \*

In view of the foregoing remarks, as well as the amendments and remarks submitted on June 2, 2009, Applicants submit that claims 55-69 and 73 are allowable. The Examiner is invited to telephone the Applicants' undersigned attorney at (312) 775-8197, if any unresolved matters remain.

Please charge any fees incurred in connection with this submission to Deposit Account No. 13-0017.

Respectfully submitted,

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